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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,079	11/30/2000	Thomas D. Erickson	YOR9-2000-0606US1(8728-42	2779
46069	7590	10/06/2005	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			DINH, KHANH Q	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/727,079	ERICKSON ET AL.	
	Examiner	Art Unit	
	Khanh Dinh	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 7/13/2005, PROSECUTION IS HEREBY REOPENED. The Office Action sets forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1-14 and 16-23 are presented for examination.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. The language of claims 1-18 raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a useful, concrete, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

5. Claims 1-18 are rejected under 35 U.S.C. 101 because the claimed invention, appearing to be comprised of software alone without claiming associated computer hardware required for execution, is not supported by either a specific and substantial asserted utility (i.e., transformation of data) or a well established utility (i.e., a practical application).

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7, 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is unclear how “an abstract graphical proxy” (in line 5) referred to the first “an abstract graphical proxy” (in line 4).

In claim 19, it is unclear how “an abstract graphical proxy” (in line 7) referred to the first “an abstract graphical proxy” (in line 6).

Dependent claims 2-7 and 20-23 are rejected for fully incorporating the deficiencies of their base claims.

Drawings

8. The drawings are objected to because in **figure 4**, it should be renumbered as **4/4** (not as ¾ in the instant application). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the

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application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an

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international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1-7 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Gudjonsson et al., US pat. No.6,564,261.

As to claim 1, Gudjonsson discloses a method of providing an electronic environment for facilitating user (7 fig.6) interaction with a business comprising the steps of: displaying an abstract graphical proxy (displaying a cluster service 1 of fig.6) for the environment (using a inter-cluster service that acts as a proxy between services in different clusters in fig.6, see abstract, fig.6, col.11 lines 5-42), displaying an abstract graphical proxy for at least one consumer within the environment (online shopping network) and providing the at least consumer with interactive business facilities via the abstract graphical proxy for the environment (see col.11 line 44 to col.12 line 54 and col.13 lines 5-59).

As to claims 2 and 3, Gudjonsson discloses the environment is a marketplace structured by the business and includes a chat application (chat sessions) (see figs.9, 10, col.13 line 4 to col.14 line 46).

As to claims 4-6, Gudjonsson discloses that the chat application includes one of private chat and public chat, interactive applets and each consumer proxy is individualized according to consumer input (see figs.9, 10, col.13 line 4 to col.14 line 46 and col.16 line 7 to col.17 line 47).

As to claim 7, Gudjonsson discloses each consumer proxy is individualized according to

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consumer activity of the at least one consumer within the environment (using a inter-cluster service that acts as a proxy between services in different clusters, see figs.6, 11, col.11 lines 5-42 and col.15 line 13 to col.16 line 47).

Claims 19-23 are rejected for the same reasons set forth in claims 1, 2, 6 and 7 respectively.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 8-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gudjonsson et al., US pat. No.6,564,261 in view of Brett (hereafter Brett), US Publication No. US 2005/0144115.

As to claim 8, Gudjonsson discloses a method comprising the steps of:

representing a social proxy in an abstract graphical display of a marketplace for facilitating consumer interaction (using a inter-cluster service that acts as a proxy between services in different clusters in fig.6, see abstract, fig.6, col.11 lines 5-42), defining a consumer proxy of a consumer (online shopping network), the consumer proxy having updatable variables (each service can define its own billing policy, see col.11 lines 5-19), displaying the consumer proxy within the abstract graphical display of the marketplace and updating the consumer proxy variables periodically (see col.11 line 44 to col.12 line 54, col.13 lines 5-59 and col.26 lines 40-58).

Gudjonsson does not specifically disclose a proxy including concentric circles, an inner most circle for displaying auction information, an inner circle for indicating user bidding activity and an outer circle for indicating user interest. However, Brett discloses a proxy including concentric circles, an inner most circle for displaying auction information, an inner circle for indicating user bidding activity and an outer circle for indicating user interest (representing user's bidding information including auction data, time and bidding rate on a graphical representation, see abstract, figs.15, 17, 21, [0126] to 0130] and [0136[to [0142])). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Brett's auction bidding graphical information into the computer system of Gudjonsson to provide an online auction because it would have enabled users to properly process of alternative bids by the ticket auctioning system and to define time limits of appropriate bidders in an online auction environment.

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As to claims 9-10, Gudjonsson discloses the social proxy is defined by a provider and extensible (distinct networks are possible operated by different service providers, see fig.13, col.1 lines 40-59 and col.17 line 1 to col.18 line 48).

As to claims 11-13, Gudjonsson discloses that the social proxy (1 fig.6) is used interactively by the consumer with an application (chat session), wherein the application is an extension of the social proxy, displaying a link to a second social proxy (other 1 fig.6, see col.11 line 20 to col.12 line 53 and col.15 line 13 to col.16 line 67) and one of a plurality of social proxies within a hierarchical system of proxies (see fig.11, col.15 line 13 to col.16 line 67 and col.25 lines 6-63).

As to claim 14, Gudjonsson discloses limiting data displayed based on a consumer's access credentials (user profile information, see col.27 line 5 to col.28 line 64).

As to claim 16, Gudjonsson discloses the abstract graphical display of the marketplace is a line including at least two consumer proxies (Intra-cluster servers (ICS) 23 include lots of generic proxies 55 of fig.13) the line indicating the consumer proxies priority with respect to a service provided by a business (see fig.13, col.17 line 1 to col.18 line 50 and col.25 lines 6-42).

As to claim 17, Gudjonsson discloses defining a business proxy of a business (online shopping network), the business proxy having updatable variables (each service can define its own billing policy, see col.11 lines 5-19), displaying the business proxy within the abstract graphical display of the marketplace and updating the business proxy variables periodically (see col.11 line 44 to

col.12 line 54, col.13 lines 5-59 and col.26 lines 40-58).

As to claim 18, Gudjonsson discloses the business proxy interacts with the consumer proxy (see fig.11, col.15 line 13 to col.16 line 47).

Response to Arguments

13. Applicant's arguments with respect to claims 1-14 and 16-23 have been considered but are moot in view of the new ground(s) of rejection.

Other prior art cited

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Chavez et al., A multi-agent system for distributed resource allocation, MIT Media Lab, 1997, pages 323-331.

Conclusion

15. Claims 1-14 and 16-23 are *rejected*.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (571) 273-8300.

A shortened statutory period for reply is set to expire THREE months from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U. S. C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khanh Dinh
Patent Examiner
Art Unit 2151
10/3/2005